

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

CLEVERLAND MCGOWAN

PETITIONER

VERSUS

CIVIL ACTION NO. 1:02cv766WJG-JMR

AARON JAGERS

RESPONDENT

CERTIFICATE OF APPEALABILITY

A notice of appeal having been filed in the captioned habeas corpus case, in which the detention complained of arises out of process issued by a state court pursuant to 28 U.S.C. § 2254 or the detention arises out of a judgment and conviction in federal court which is being challenged pursuant to 28 U.S.C. § 2255, the court, considering the record in the case and the requirements of 28 U.S.C. § 2253 and Rule 22(b) of the Federal Rules of Appellate Procedure, hereby finds that:

Part A

       A certificate of appealability should issue. (See reasons below.)

      X A certificate of appealability should not issue. (See reasons below.)

Part B

(for non-CJA pauper cases only)

      X The party appealing is a pauper.

       The party appealing is not a pauper. (See reasons below.)

REASONS: Having reviewed the relevant documents, including Petitioner's financial affidavit, and noting that Petitioner was granted IFP status previously, with no significant change in his circumstances since that time, the Court concludes that Petitioner should be granted leave to proceed IFP.

The standard for issuing a COA requires a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); *Cotton v. Cockrell*, 343 F.3d 746, 749 (5th Cir. 2003). Petitioner must show that his motion "raises issues that are debatable among jurists, or that a court could resolve the issues differently, or that the questions deserve further proceedings." *Barefoot v. Estelle*, 463 U.S. 880 (1983). The Court has reviewed all relevant allegations within its Order entered in this cause on June 23, 2006, and incorporated herein by reference. The Court cannot certify that the appeal in this case is taken in good faith. (*Id.*)

Date: September 13, 2006

Walter J. Gex III  
UNITED STATES SENIOR DISTRICT JUDGE